THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

Writ Petition No. 9774 of 2006

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Dated: 09.05.2006

Between

S. Najma Begum, W/o S. Khaja Mohiddin, R/o Old D.No. 2/62, (New D.No. 2/386 & 2/386-A), Railway Station Road, Cuddapah and another.

……Petitioners.

And

Cuddapah Municipal Corporation, rep. by its Commissioner, Cuddapah District and others.

……Respondents.

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

Writ Petition No. 9774 of 2006

Order:

This writ petition is filed with the following prayer.

> "To issue a Writ or order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of respondent No.1 in asking the petitioners to surrender their properties and to handover the original documents relating to premises bearing Municipal No.2/386 and 2/386-1,

R.S. Road, Cuddapah of petitioner No.1 and Municipal Door No.4/487/1 to 4/487/9, Old Bus Stand Road, Cuddapah pertaining to petitioner No.2 and threatening to demolish the same without adherence to the due process of law as being illegal, arbitrary, unjust, improper, motivated and violative of Article 300-A of the Constitution of India."

The petitioner Nos.1 and 2 claim to be owners of premises bearing Municipal No.2/386 and 2/386-1 situated at R.S. Road, Cuddapah and Municipal Door No.4/487/1 to 4/487/9 situated at Old Bus Stand Road, Cuddapah respectively. In response to notice dated 04.04.2006 issued by respondent No.1 under Section 146 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') requesting the petitioners to handover an extent of 73.14 sq. Mts. and 46.56 sq. Mts. respectively for the purpose of road widening, the petitioners, through their reply letters dated 15.04.2006 and 04.05.2006 respectively, expressed their unwillingness and refused to give their consent for taking over their properties for road widening. Now, the petitioners contend that the Staff of respondent No.1-Corporation visited their premises on 07.05.2006 and directed them to handover the affected properties and threatened them of forcible dispossession in the event of their refusal to deliver possession of the required property for road widening, and that the action of respondents in directing the petitioners to surrender their properties for the purpose of road widening without following due process of law is illegal.

Admittedly, when the petitioners refused to give their consent for taking over their properties for the purpose of road widening, the respondents have no other option, except to take over the properties as per law.

Having regard to the facts and circumstances of the case, the writ petition is disposed of at the admission stage directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law, particularly the procedure contemplated under Section 147 of the Ac t. No costs.

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M. VENKATESWARA REDDY, J.

Date: 09.05.2006

Nsr/Skmr